

**STATE OF MICHIGAN
IN THE 4th JUDICIAL CIRCUIT COURT COUNTY OF JACKSON
CRIMINAL DIVISION**

PEOPLE OF THE STATE OF MICHIGAN
Plaintiff,

Case No. 20-003172-FH
Hon. Thomas Wilson

V

JOSEPH MORRISON
Defendant.

MICHIGAN ATTORNEY GENERAL'S OFFICE
SUNITA DODDAMANI (P67459)
ASSISTANT ATTORNEY GENERAL
3030 W. GRAND BLVD
DETROIT, MI 48202
(313) 456-0180

NICHOLAS P. SOMBERG (P80416)
SOMBERG LAW, PLLC
Attorney for Joseph Morrison
31700 Telegraph Rd. Suite 210
Bingham Farms, MI 48025
T: (248) 270-5979

DEFENDANT'S BRIEF IN
SUPPORT OF MOTION TO
DISMISS BASED UPON ENTRAPMENT

Now, here comes the defendant, Joseph Morrison, by and through his attorney, Nicholas P. Somberg of Somberg Law, PLLC, and states the following to this honorable Court:

FACTS

In November of 2019, a Facebook group was started for the Wolverine Watchmen by Defendant. The intent of the page was to attract people that wanted to train in preparation for a situation in which the government was unable to maintain societal order. The group began to talk on various platforms and ultimately began to train. After a discussion about policing and a perceived threat to law enforcement, a member of the group went to law enforcement in Genesee County. The information was then passed on to the Federal Bureau of Investigations. The FBI

then decided to begin paying this member of the group to be their informant, and provide him direction, money, and recording devices. The Confidential Informant attends a training with the Wolverine Watchmen. After the training, he is immediately promoted to the number two position in the group. He then begins to run the trainings himself with the knowledge and direction of the FBI. The informant begins to teach the Wolverine Watchmen actual military-style techniques. Before his promotion, the Wolverine Watchmen would imitate trainings that they found on YouTube. In June of 2020, members of a Wolverine Watchmen went to a protest at the Michigan State Capital. The purpose of the protest was to challenge the Governor's use of Executive Orders. Although the Wolverine Watchmen had complained about the Governor's actions and Covid-19 orders, they had taken no action against law enforcement or her. At the protest, the members of the Watchmen met Adam Fox and agreed to meet with him again in Grand Rapids.

The meeting in Grand Rapids was held at a location picked by Adam Fox. The Wolverine Watchmen were represented by Ty Garbin and Paul Bellar. After leaving the meeting, Paul Bellar referred to Adam Fox as crazy and did not recommend associating with him. Joseph Morrison did not go to this meeting. At a June 18th training, the group was discussing what Adam Fox was about and inviting him to training. At that time, no decision was made to invite him. Joe Morrison expressed his concerns about Adam Fox to the Confidential Informant. The Confidential Informant vouched for Adam Fox and encouraged Joe Morrison to invite him. The group had various concerns with him. There was a phone call between Adam Fox and the group. That phone call was disconnected. The Confidential Informant called Adam Fox back. During that phone call, two F.B.I. Agents were listening in the room. During this conversation, the Confidential Informant invited Adam Fox to training. After the training, Adam

Fox recruited members of the Wolverine Watchmen to join his group. Those members are accused of plotting with Adam Fox to commit a kidnapping. The government alleges that Joseph Morrison committed Material Support of Terrorism for training the people that Adam Fox took from the group.

**THE GOVERNMENT INTENTIONALLY
ENCOURAGED THE WOLVERINE WATCHMEN TO TRAIN
NOW THEY ALLEGE THE TRAININGS WERE A CRIME**

The Michigan Supreme Court has recognized the public policy behind an entrapment defense since 1878.ⁱ The Court has long recognized the policy behind not allowing police to decoy, associate, and instigate persons into committing crimes. In the Turner case, law enforcement befriended a trucker, and the trucker began to sell him caffeine pills. The police then encouraged him to sell heroin. Eventually, the defendant introduced law enforcement to the guy he initially bought drugs from. The Court of Appeals ruled that the defendant was entrapped. Although our case is not a narcotics case, the reasoning of the Court is on-point. In the Turner case, the Court explicitly states the problems with entrapment. The Court stated that,

“Where a person contemplating the commission of an offense approaches an officer of the law, and asks his assistance, it would seem to be the duty of the latter, according to the plainest principles of duty and justice, to decline to render such assistance, and to take such steps as would be likely to prevent the commission of the offence...”ⁱⁱ

In our case, the F.B.I. did the exact opposite. If they believed the trainings that the Wolverine Watchmen were doing from November of 2019 through July of 2020 were criminal, then the public policy would suggest that they stopped it. However, they sent in their paid informant who actually improved the training, and provided funds and expertise. It was the improvements made by the F.B.I.'s informant that made the Wolverine Watchmen an attractive organization to Adam Fox. When the confidential informant went to his first training with the Wolverine Watchmen, they were crawling in the dirt and shooting at paper targets. The

Confidential informants training brought in “Kill house” scenarios, shooting from cars, and training with a Navy SEAL. The first premise of governmental law enforcement is to "lead us not into temptation." The Confidential Informant took the Wolverine Watchmen from YouTube copycats to a combat group with military-style training.

**THE GOVERNMENT ENCOURAGED
AND INSTIGATED THE RELATIONSHIP BETWEEN
ADAM FOX AND THE WOLVERINE WATCHMEN**

The overall purpose of the entrapment defense is to deter the corruptive use of governmental authority by invalidating convictions that result from law enforcement efforts that have as their effect the instigation or manufacture of a new crime by one who would not otherwise have been so disposed.ⁱⁱⁱ In our case, the Wolverine Watchmen had not decided on whether or not to associate with Adam Fox. Several members had various reservations about him; the reasons are irrelevant. The F.B.I. then engaged in a private phone call with Mr. Fox, the first time they were on the phone alone, and invited him to the Munith, Michigan for training. Furthermore, the Confidential Informant plainly vouched for and encouraged Joe Morrison to associate with Mr. Fox. The behavior of the Confidential Informant personifies the entrapment defense in Michigan:

“When the agents’ involvement in criminal activities goes beyond the mere offering of such an opportunity, and when their conduct is of a kind that could induce or instigate the commission of a crime by one not ready and willing to commit it, then—regardless of the character or propensities of the particular person induced—I think entrapment has occurred. For in that situation, the Government has engaged in the impermissible manufacturing of crime...”^{iv}

In our case, the government instigated the connection between Adam Fox and the Wolverine Watchmen. It was the government that ultimately invited him to training. At the training he just observed, the Wolverine Watchmen never trained with him. Furthermore, the Wolverine Watchmen never agreed with his plan. Adam Fox then takes the members he

chooses, establishes another training site, communication platform, organization, and command structure.

CONCLUSION

We ask the Court to order a hearing and to hold by a preponderance of the evidence that Joseph Morrison was entrapped in this case. Furthermore, that but for the instigation of the government that Mr. Morrison would have never engaged in training that rose to the level of material support of terrorism, that he would have never trained in front of Adam Fox, finally that Adam Fox would have never had access to group members to build his own organization from.

Respectfully Submitted,

/s/ Nicholas P. Somberg

NICHOLAS P. SOMBERG (P 80416)

SOMBERG LAW, PLLC

31700 Telegraph Rd.

Bingham Farms, MI 48025

248/270-5979//248/590-0166 fax

Nick@Somberglaw.com

ⁱ Sanders v. People, 38 Mich. 218 (1878)

ⁱⁱ People v Turner, 390 Mich. 7 (1973)

ⁱⁱⁱ People v D'Angelo, 401 Mich. 167, 174 (1977)

^{iv} People v Turner, 390 Mich. 7 at 21 (citing United States v. Russell, 411 U.S. 423, 445 (1973 Stewart dissenting))